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OFFICE OF PETITIONS

In re Application of  
Himmelsbach et al.  
Application No. 09/719,319  
Filed: June 18, 1999 (Int application)  
Attorney Docket No.: Biersdorf67

DECISION DISMISSING PETITION

This decision is in response to applicants' "Request for Projected Patent Term Adjustment Under 37 CFR 1.704(b))" filed March 3, 2004. Applicants request that the Office adjustment the patent term adjustment determination at the time of the mailing of the notice of allowance from zero (0) days to two hundred and six (206) days.

The applicants' request for reconsideration is **DISMISSED**.

Applicants assert that they are entitled to patent term adjustment because the Office failed to provide a notice within the meaning of 35 U.S.C. 132 within 14 months of the filing of the application as required under 37 CFR 1.702(a)(1).

Applicants comments have been considered but are not deemed persuasive because the application is not considered eligible for Patent Term Adjustment. Rather, this application is eligible for Patent Term Extensions pursuant to 37 CFR 1.701 and accordingly there is no requirement by the Office to act on the application within 14 months of the filing date of the application. For applications filed pursuant to 35 U.S.C. 371, the filing date of the application is the date of the filing of the international application. Accordingly, for applications filed pursuant to 35 U.S.C. 371, the international filing date must be on/after May 29, 2000 in order to be considered eligible for PTA. The international filing date of this application is June 18, 1999 prior to the effective date for PTA purposes.

The Office will assess the \$200.00 fee to Deposit Account No. 14-1263. No additional fees are required for this decision.

After mailing of this decision, the Office will forward this decision to Office of Patent Publications for a prompt issuance of this application.

Any additional questions concerning this matter should be addressed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Karin Ferriter

*Kery A. Fries*  
*for*

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TC 1700

Application No. 09/719,319

Senior Legal Advisor  
Office of Deputy Commissioner  
For Patent Examination Policy